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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
WINTER (Deceased)	:	DECISION ON
Application No.: 10/523,063	:	
PCT No.: PCT/EP03/08445	:	REQUEST
Int. Filing Date: 30 July 2003	:	
Priority Date: 13 August 2002	:	UNDER 37 CFR 1.42
Attorney Docket no.: 081539-000000US	:	
For: METHOD FOR THE TREATMENT OF	:	
FIBER MATERIAL	:	

This is a decision on applicant's Response to Notification of Missing Requirements filed in the United States Patent and Trademark Office (USPTO) on 21 October 2005 and is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 01 September 2005, a Notification of Missing Requirements was mailed to applicant indicating that to satisfy the requirements of 35 U.S.C. 371(c), an oath or declaration of the inventors be furnished.

On 21 October 2005, applicant filed a response to the Notification with a declaration which was signed by 8 inventors and by the legal representative for deceased inventor Peter-Rigobert Winter. The declaration identifies Erika Winter as the heir of deceased inventor Peter-Rigobert Winter.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration is unacceptable for several reasons. First, the declaration does not state the country of citizenship, former residency and mailing address for *both* the deceased inventor

and the heir, for compliance with 37 CFR 1.497(b)(2). The new declaration must provide the citizenship, residency and mailing address of the heir(s) and the citizenship, last known residency and mailing address of the deceased inventor.

Second, it is unclear whether Erika Winter is the only heir of deceased inventor Peter-Rigobert Winter. (See MPEP §409.01(a)). That is, there may be other heirs who are required to also sign the declaration. A new declaration must indicate that Erika Winter is the only heir for the deceased inventor to accept the application under 37 CFR 1.42. Alternatively, applicants' attorney may file a statement certifying that Erika Winter is the only heir.

Finally, the declaration is comprised of nine pages, containing one page 1 and one page 2 and seven duplicate page 3 signature pages. Each page 3 is executed by a different inventor(s). The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." See MPEP 201.03. What is required is one declaration where all inventors have signed or separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

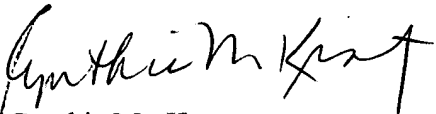
For the reasons stated above, a new declaration is required in compliance with 37 CFR 1.497 and 1.64. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

The declaration submitted on 21 October 2005 cannot be accepted as a proper response to the Notification of Missing Requirements at this time. What is required is a new declaration where all inventors have signed or separate complete declarations in compliance with 37 CFR 1.497(a) and (b). Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within **TWO (2) MONTHS** from the mail date of this Decision or the time remaining under the Notification of Missing Requirements.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286
Facsimile: 571-273-0459